

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 00-6273-CR-HUCK

UNITED STATES OF AMERICA,

*Plaintiff,*

vs.

ARIEL HERNANDEZ, et al.,

*Defendant,*

**EMERGENCY**  
**MOTION TO WITHDRAW AS CO-APPELLATE COUNSEL**

THE UNDERSIGNED COUNSEL, respectfully moves this Honorable Court to enter its Order permitting him to withdrawal as co-appellate counsel for the defendant, and in support thereof would state:

1. The undersigned represented the Defendant, Ariel Hernandez, pursuant to an appointment under the Criminal Justice Act. This representation in the District Court included all matters beginning shortly after Indictment and continuing through trial and sentencing. Further, the undersigned has preserved the Defendant's right to appeal the findings of the Jury and the District Court by timely filing a Notice of Appeal with the Eleventh Circuit Court of Appeals. That appeal remains pending at this time.

2. Subsequently, the undersigned was permitted to withdraw as a result of irreconcilable differences between the Defendant/Client.

3. Recently, this matter had been remanded by the Eleventh Circuit Court of Appeals in order to reconstruct a portion of the record. At that time, this Court appointed the undersigned to act as co-appellate counsel with Richard Rosenbaum, Esq.

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4. On Tuesday, September 30, 2003, the undersigned was contacted by Richard Rosenbaum and notified that Mr. Hernandez had made death threats towards the undersigned as well as threats to burn down his house. These threats were allegedly communicated to a friend of his who took them seriously enough to contact Mr. Rosenbaum and advise him of the threats.

5. Mr. Rosenbaum met with Mr. Hernandez on September 30, 2003 and was temporarily put at ease regarding the seriousness of these threats. However, on October 2, 2003 Mr. Rosenbaum contacted the undersigned to notify him that he had received a letter from Mr. Hernandez which made additional threats of death or serious bodily injury against the undersigned if he continues as co-appellate counsel.

6. Mr. Rosenbaum has advised the undersigned that he takes these threats seriously and frankly, given the nature of the conduct for which Mr. Hernandez was convicted, as well as past personal contacts the undersigned has had with him, the undersigned is compelled to also take these threats seriously.<sup>1</sup>

7. The undersigned has attempted to confer with AUSA Jeffrey Sloman, who was unavailable at the time.

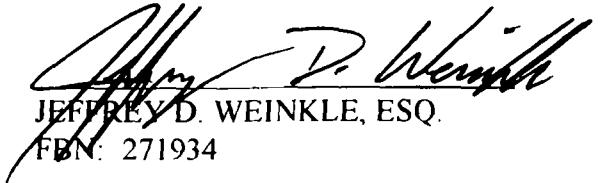
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<sup>1</sup> Mr. Hernandez advised the Court at the conclusion of the hearing to reconstruct the record that he was satisfied with the undersigned as his trial counsel, but that he did not want him to continue as appellate counsel.

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WHEREFORE, the undersigned respectfully moves this Honorable Court to permit the him to withdraw as co-appellate counsel of record for the Defendant.

Respectfully submitted,



JEFFREY D. WEINKLE, ESQ.  
FBN: 271934

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed/delivered this 2nd day of October, 2003, to: UNITED STATES ATTORNEY'S OFFICE, AUSA Jeffrey Sloman, 500 E. Broward Blvd., Suite 700, Ft. Lauderdale, FL 33394 (Fax: 954-356-7230); and to:

Stephen Rosen, Esq.  
Suite 1020  
1221 Brickell Avenue  
Miami, FL 33131  
(Attorney for Trentacosta)

Mr. Ariel Hernandez  
c/o Broward County Jail  
555 SE First Ave  
Ft Laud, Fl 33301

JEFFREY D. WEINKLE, ESQ.  
Biscayne Building  
19 West Flagler Street, Suite 407  
Miami, FL 33130  
Tel: (305) 373-4445  
Fax: (305) 377-2324



JEFFREY D. WEINKLE, ESQ.